

Applicant: John L. Anderson Docket No.: 71351-0034
Serial No.: 10/709,855 Filed: June 2, 2004
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Remarks

Claims 1-21 were in the application as last examined. Applicant now amends claims 1-3, 14, and 20-21, and adds new claims 22-30. No new matter is added to the claims or to the specification. Further consideration and examination is respectfully requested.

Rejections under 35 U.S.C. §112

Claim 20 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. According to the Examiner, it is not clear that the present disclosure shows the claimed flat perform because the first side panel flap is mounted to the second panel in an erected state.

With respect, the Examiner is urged to review paragraph [0045] and Fig. 7 of the specification that fully discloses the claimed preform. As well, claim 20 has been amended to clarify the structure of the preform. With this clarification, it is believed that the rejection is overcome.

Rejections under 35 U.S.C. §102

Claims 1-3, 5, 12-14, and 21 stand rejected under 35 U.S.C. §102 as being anticipated by the Spivey et al. patent. The rejections are traversed.

The Spivey et al. patent discloses a foldable paperboard carton for holding and dispensing cans and bottles of the types used to contain soft drinks, beer and the like (Col. 1, line 57 – Col. 2, line 1). What the Examiner refers to as “display panels” 68, 70 are identified in the Spivey et al. patent as side exiting end flaps in the exiting end of the carton. A dispensing flap 76 is attached to side panels 12, 14 by optional gusset straps 80, 82 that serve to prevent the dispensing flap 76 from tilting below the plane of a refrigerator shelf (Col. 3, line 58 – Col. 4, line 6).

With respect to claim 1, the Spivey et al. patent does not disclose a display panel. The exiting panels 68, 70 of the Spivey et al. patent display nothing; rather they serve to bar the accidental exit of beverage cans or bottles from the carton by providing container restraining flaps 122, 124 (Col. 5, ll. 32-40).

As well, the Spivey et al. patent does not disclose or suggest that the exiting panels 68, 70 are adapted to bear indicia about the contents of the container as required in claim 1. Moreover, the dispensing flap 76 of the Spivey et al. patent (referred to by the Examiner as a closure panel) does not cover both the opening and the display panel in the closed position so that the contents of the container and any indicia the display panel can be viewed only by moving the closure panel to the open position as required by claim 1. Thus, claim 1 is not anticipated by the Spivey et al. patent. And because claims 2, 3, 5, 12, and 13 all depend from claim 1, they are likewise not anticipated.

Moreover, with respect to claim 3 the Spivey et al. patent does not disclose securing the closure panel to another panel away from a hinge in the open position. Rather the Spivey et al. patent discloses the dispenser flap being folded open (hinged), but unsecured. Paragraph 44 of the application explains that the closure panel is folded back over the adjacent top panel and *secured thereto*. In the subject invention, Figs. 9-15 show one way that the closure panel is secured to the top panel.

Claim 5 is canceled without prejudice.

With respect to claim 12, the Spivey et al. patent does not disclose full overlap panels on the first end.

With respect to claim 13, the Spivey et al. patent does not disclose a display panel having a bottom portion and two side portions. Applicant's invention has two side panels 34, 36 and a securing bottom panel 44 that together form the display panel.

With respect to claim 14, the Spivey et al. patent does not disclose a closure panel sized to cover the second end of the erected container. Nor does the Spivey et al. patent disclose means to secure the closure panel to one of the four panels away from the fold line. Thus, claim 14 is not anticipated by the Spivey et al. patent.

With respect to claim 21, the Spivey et al. patent does not disclose a corrugated container. Moreover, the Spivey et al. patent does not disclose a closure panel capable of closing the second end so that the contents of the container and the display panel can be viewed only by

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moving the closure panel to the open position. Thus, claim 21 is not anticipated by the Spivey et al. patent.

Allowable Subject Matter

Applicant acknowledges with thanks the Examiner's determination of the allowability of the subject matter of claims 4, 6-11, and 15-19. However, given the apparent allowability of the remaining claims, it is believed that no amendments to these claims are needed to establish patentability.

Conclusion

Inasmuch as all claims are now believed to be in condition for allowance, prompt notice of allowability is respectfully requested. Any questions about the foregoing can be directed to the undersigned and the Examiner is invited to resolve any remaining issues by telephone or by email.

Respectfully submitted,

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